

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED

2010 JAN 29 AM 9:47

WYNDHAM VACATION
RESORTS, INC.,

Plaintiff,

v.

TOA, LLC d/b/a THE OWNERS'
ADVOCATE,
DAVID HUMPHREY
a/k/a SCOTT DAVIDSON,
KURT W. BARTLETT,
and KAY METKO,

Defendants.

No. 09-00899

Judge Haynes

DENIED
For the reasons and
pending in the Orders
granting injunctive relief,
this motion is DENIED.

**DEFENDANT DAVID HUMPHREY'S MOTION TO DISMISS COUNTS ONE, TWO, FOUR,
FIVE, SIX, SEVEN AND EIGHT OF WYNDHAM VACATION RESORTS, INC.'S COMPLAINT**

Defendant David S. Humphrey ("Defendant or Humphrey"), pursuant to Federal Rules of Civil Procedure 12(b)(6), or alternatively Rule 12(c), hereby moves this Court to dismiss Counts One, Two, Four, Five, Six, Seven and Eight of the Complaint for failure to state a claim. As set forth in more detail in the supporting memorandum, Plaintiff cannot prevail on its claims against Humphrey for violations alleged. In support of this motion, Humphrey relies upon his Memorandum of Law in Support of Motion to Dismiss submitted concurrently herewith.

Respectfully submitted,

/s/ David S. Humphrey

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